

# Motion Practice

## A. CONCURRENCE

The Court requires adherence to [Eastern District of Michigan Local Rule 7.1\(a\)](#), which requires moving parties to seek concurrence before filing a motion. The Court requires that a good-faith effort be made to obtain concurrence, which normally involves actual contact with opposing counsel and conveyance of the specific issues the party intends to raise in the motion. **It is not sufficient simply to inform opposing counsel that you intend to file, for example, a motion to dismiss.** The purpose of this process is to, at a minimum, narrow the issues raised in any subsequently filed motion. If no actual conversation occurs, the moving party must show that reasonable efforts were undertaken to conduct a conference and specifically describe those efforts in the motion papers. The outcome of the conference must be stated. All of this must be documented specifically in the motion papers.

## B. BRIEFING AND COURTESY COPIES

For all pleadings, the Court requires strict compliance with the Local Rules for the Eastern District of Michigan, including the District's Electronic Filing Policies and Procedures. Counsel must familiarize themselves, in particular, with the requirements of [Local Rules 5.1](#) and [7.1](#) and [Rule 5 of the Electronic Filing Policies and Procedures](#). Failure to comply with these rules may result in the Court striking the pleading.

### 1. Courtesy Copies

In accordance with the rules, the Court requires courtesy copies of all dispositive motion papers. The Court also requests courtesy copies of all lengthy pleadings or pleadings to which multiple exhibits are attached thereto. Courtesy copies must be properly bound. The Court will not accept documents loosely secured with a rubber band or binder clip. Exhibits must be properly tabbed. When citing deposition testimony, counsel should supply the Court with a transcript of the cited page(s), together with sufficient accompanying pages to provide context. Full transcripts will be accepted and are preferred unless they are unusually long; transcript indexes also are preferred. Courtesy copies must be submitted promptly after the pleading is filed.

### 2. Schedule

The Court adheres to the briefing schedule and page limits set forth in [Local Rule 7.1](#). Counsel should contact the other side when seeking extensions of the page limit and/or deadlines set forth in the rules prior to submitting a request to chambers. If an agreement is reached, the parties should file a stipulated order, signed by counsel for each side and containing a signature line for the Court, reflecting the agreement. Where an agreement cannot be reached, extensions may be obtained by filing a motion, which the Court will grant if the request is warranted and reasonable. Counsel are advised to be reasonable when consent is first sought.

## C. PRIVACY

Counsel must be vigilant regarding the use of private information in any filings (including deposition transcripts). Counsel must redact certain private information as set forth in Federal Rule of Civil Procedure 5.2.

## D. HEARINGS

The Court schedules motion hearings unless it believes a hearing will not aid in its disposition of the motion. The Court will issue a notice of hearing with a specific date and time or a "no hearing"

notice. Therefore, the parties need not file notices or requests for hearing, and should not contact chambers to schedule a hearing.

A party that fails to timely respond to a motion will not be permitted to argue at any hearing on the motion.

## **E. MOTIONS FOR TEMPORARY RESTRAINING ORDER OR PRELIMINARY INJUNCTION**

The Court has specific practice guidelines and procedures addressing motions for temporary restraining order or preliminary injunction.

## **F. DISCOVERY MOTIONS**

As set forth in the Court's discovery practice guidelines and procedures, the parties may not file a discovery motion without first contacting the Court's Case Manager, Richard Loury.

## **G. SUMMARY JUDGMENT MOTIONS**

When filing motions for summary judgment, the parties shall proceed in accordance with the following:

1. Facts stated in the statement of material facts must be supported with citations to specific parts of materials in the record, such as interrogatories, admissions, depositions, affidavits, or documents. The text of any source cited should be filed with the Court as an appendix. The appendix shall contain an index and be tabbed (see paragraph B above).
2. Counsel are discouraged from employing elaborate boilerplate recitations of the summary judgment standard or lengthy string citations in support of well-established legal principles. Instead, counsel should focus their analysis on a few well chosen cases, preferably recent and from controlling courts. Counsel are encouraged to supply the Court with copies of their main cases, but must provide courtesy copies of any cited unpublished decisions.
3. It is not the Court's function to "figure out" or to search the record to determine what evidence the parties rely upon in support of claims or defenses. It is incumbent upon the parties to make substantive arguments, with specific references to the record in support of each claim or defense asserted.

## **H. ORDERS ON MOTIONS**

As a general rule, the Court prepares its own orders following oral argument or, where oral argument is disposed of, after reviewing the pleadings. However, a party moving for default judgment should submit a proposed order and judgment when filing the motion.

## **I. SETTLEMENT AND RESOLUTION OF MOTIONS**

The parties must notify chambers in writing within one business day of the case settling. The parties may accomplish this by either sending an email to the Case Manager or sending a fax to chambers. Similarly, if the parties resolve a pending motion prior to the hearing date, they must notify chambers within the same time frame. The movant must then file a notice withdrawing the pending motion.

If the plaintiff files an amended complaint in response to a motion to dismiss and the movant concludes that the amendment moots the motion (or requires different arguments in support of

dismissal), the movant should file a notice withdrawing the initial motion, and if desired, file a new motion to dismiss.